



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

SEP 21 2005

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: KIBA, et al.
Application No. 10/849,022
Filed: May 20, 2004
For: METHOD AND SYSTEM FOR DATA
PROCESSING FOR CONTROLLING A
CACHE MEORY

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 11 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new

application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 11 August 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references.

On page 6 of the petition, a first feature of independent claims 1, 6, and 11 is identified. The petition then states that "the prior art does not teach or suggest, at a minimum, the above-described feature." On pages 6-9 of the petition, for all but one of the references deemed most closely related, the discussion states that the reference does not disclose "a computer for executing a program, wherein a storage unit has a cache memory for storing data transmitted from the program, and responsive to an input of a request for flushing transmitted from the program, stores, in a disk device the data stored in the cache memory." All of the features of this statement are included in the first feature. However, this statement contains fewer limitations than the first feature. The petition is confusing as to whether this statement is intended to distinguish the references or whether the first feature is intended to distinguish the references. Clarification is required. The statement on page 10 for the last reference deemed most closely related also includes fewer limitations than the first feature. Again, clarification is required as to whether this statement is intended to distinguish the reference or whether the first feature is intended to distinguish the reference.

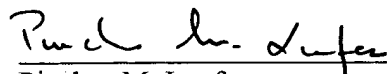
Additionally, the first feature recites essentially all of the limitations of claims 1, 6, and 11. Thus, the statement regarding the first feature purports that essentially the entirety of each of claims 1, 6, and 11 is not taught by any of the references deemed most closely related. Such a statement is not a sufficient detailed description.

Also, it is suggested that if the identical statement is being made to distinguish each reference from the claims, then the statement should simply be made once in the petition. (E.g., "None of the references disclose")

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599